



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-533-885

Polyester Textured Yarn from India: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that imports of polyester textured yarn (yarn) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or Michael Bowen,

AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington,

DC 20230; telephone: (202) 482-4929 or (202) 482-0768, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2019, Commerce published in the *Federal Register* its preliminary affirmative determination in the LTFV investigation of yarn from India and invited parties to comment.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.²

¹ See *Polyester Textured Yarn from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures*, 84 FR 31301 (July 1, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from India,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation is October 1, 2017 through September 30, 2018.

Scope of the Investigation

The product covered by this investigation is polyester textured yarn from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

During the course of this investigation and the concurrent countervailing duty (CVD) investigation of yarn from India, and concurrent antidumping duty (AD) and CVD investigations of yarn from the People's Republic of China, certain interested parties commented on the scope of the investigations as it appeared in the *Initiation Notice*.³ Commerce addressed these comments in the *Preliminary Determination*, wherein Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn.⁴ No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the *Preliminary Determination* with regard to bulk continuous filament yarn.

³ See *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223, 58233 (November 19, 2018) (*Initiation Notice*).

⁴ See *Preliminary Determination*, 84 FR at 31302.

In the *Preliminary Determination*, we also noted that on May 2, 2019, the petitioners⁵ requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTSUS) subheading in the scope language.⁶ We stated our intent to address this request in the final determinations of this and the above-referenced concurrent investigations. Specifically, the petitioners requested that Commerce add HTSUS 5402.52.00 covering twisted yarn to the scope of the investigations.⁷ As no interested parties rebutted the petitioners' request to add this HTSUS subheading, and Commerce finds the petitioners' request is reasonable, we have revised the scope of the investigations to include HTSUS 5402.52.00. *See* Appendix I for the final scope of the investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

Verification

As provided for in section 782(i) of the Tariff Act of 1930, as amended (the Act), in July and August 2019, we conducted verification of the sales and cost information submitted by Reliance Industries Limited (Reliance) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Reliance.⁸

Changes Since the Preliminary Determination

⁵ Unifi Manufacturing, Inc. and Nan Ya Plastics Corporation, America are collectively the petitioners.

⁶ *See Preliminary Determination*, 84 FR at 31302.

⁷ *See* the Petitioners' Comments, "Request to Include HTSUS Subheading 5402.52 in the Scope of These Investigations," dated May 2, 2019.

⁸ For a discussion of our verification findings, *see* the following memoranda: "Verification of the Cost Response of Reliance Industries Limited, (RIL) in the Antidumping Duty Investigation of Polyester Textured Yarn from India," dated September 9, 2019; and "Verification of the Sales Response of Reliance Industries Limited in the Antidumping Investigation of Polyester Textured Yarn from India," dated September 16, 2019.

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Reliance. For a discussion of these changes, *see* the “Margin Calculations” section of the Issues and Decision Memorandum.

Use of Adverse Facts Available

The respondent JBF Industries Limited (JBF) failed to cooperate in this investigation. Therefore, in the *Preliminary Determination*, pursuant to sections 776(a) and (b) of the Act, Commerce assigned JBF a rate based on adverse facts available (AFA). There is no new information on the record that would cause us to revisit our determination to apply AFA to JBF. Accordingly, we continue to find that the application of AFA pursuant to sections 776(a) and (b) of the Act is warranted with respect to JBF. Commerce has assigned to JBF’s exports of the subject merchandise the rate of 47.51 percent, which is Reliance’s highest transaction-specific margin.⁹ Because this rate is not secondary information, but rather is based on information obtained in the course of the investigation, Commerce need not corroborate this rate pursuant to section 776(c) of the Act.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Commerce assigned a rate based entirely on facts available to JBF. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Reliance. Consequently, the rate calculated for Reliance is also assigned as the rate for all other producers and exporters.

⁹ *See* Issues and Decision Memorandum.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter or Producer	Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offset(s))
JBF Industries Limited	47.51	43.38
Reliance Industries Limited	17.62	13.49
All Others	17.62	13.14

Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of yarn from India, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after July 1, 2019, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin as follows: (1) the cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the

producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension-of-liquidation instructions will remain in effect until further notice.

In the event that a CVD order is issued, and suspension of liquidation is resumed in the companion CVD investigation on yarn from India, Commerce will instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate.¹⁰ These adjustments are reflected in the final column of the rate chart, above. Until such suspension of liquidation is resumed in the companion CVD investigation, and so long as suspension of liquidation continues under this AD investigation, the cash deposit rates for this AD investigation will be the rates identified in the estimated weighted-average dumping margin column in the rate chart, above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of yarn no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by

¹⁰ See Memorandum, "Calculation of Export Subsidy Adjustments for the Final Determination," dated November 13, 2019.

Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: November 13, 2019

/S/ Jeffrey I. Kessler

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of the investigation is bulk continuous filament yarn that: (a) is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to this investigation may also enter under HTSUS subheading 5402.52.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes from the Preliminary Determination
- IV. Discussion of the Issues
 - Reliance
 - 1. Whether Adverse Facts Available (AFA) is Warranted for Reliance
 - 2. Affiliated Party Purchases
 - 3. Technical Services Adjustment
 - 4. Level of Trade (LOT) Adjustment
 - 5. Sales Made Outside the Ordinary Course of Trade
 - JBF
 - 6. Whether AFA is Warranted for JBF
 - 7. Selection of the Appropriate AFA Rate for JBF
 - 8. Adjustment to Cash Deposit Rates for Export Subsidies
- V. Recommendation

[FR Doc. 2019-25085 Filed: 11/18/2019 8:45 am; Publication Date: 11/19/2019]